

# **EXHIBIT 11**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARIA MAHMOOD  
Plaintiff,

v.

NATIONAL BOARD OF MEDICAL  
EXAMINERS,

Defendant.

Civil Action No. 2:12-CV-01544-PD

**AFFIDAVIT OF GERARD F. DILLON, PH.D.**

Gerard F. Dillon, having been duly sworn, hereby deposes and states:

1. I am employed by the National Board of Medical Examiners ("NBME") as Vice President, United States Medical Licensing Examination™ ("USMLE"). As Vice President, USMLE, I coordinate USMLE activities at the NBME, including implementing and coordinating USMLE policies, developing an appropriate program design, overseeing the composition and activities of test committees, developing a research agenda, and serving as a liaison with external groups. A copy of my curriculum vitae is attached hereto as Exhibit A.

2. The NBME is a private non-profit corporation which, together with the Federation of State Medical Boards of the United States, Inc. ("FSMB"), another non-profit corporation, has established the USMLE. The USMLE is an examination designed to assess a physician's ability to apply knowledge, concepts, and principles, and to demonstrate fundamental patient-centered skills, that are important in health and disease and that constitute the basis of safe and effective patient care. Each state's medical licensing authority sets its own rules and regulations for those seeking a license to practice in that jurisdiction. Results of the USMLE are reported to these authorities for their use in evaluating applicants seeking an initial license to practice medicine.

The USMLE provides the licensing authorities with a common evaluation system for these applicants. The goals of the USMLE are (i) to provide to licensing authorities meaningful information from assessments of physician medical knowledge and skills that are important to the provision of safe and effective patient care; and (ii) to assure fairness and equity to physicians through the highest professional testing standards.

3. The mission of the NBME is to protect the health of the public by providing a common, consistent, state-of-the-art system of assessment for health professionals. Maintaining the integrity of the testing process is a critical part of the NBME's obligation to protect the public. In order to ensure the integrity and meaning of the scores on the examination, the NBME strives to ensure that the USMLE is administered under standard conditions and that no examinee or group of examinees receives unfair advantage over another on the examination.

4. There are three major segments to the USMLE, known as "Steps." Step 1 assesses whether an applicant can understand and apply important concepts of the sciences basic to the practice of medicine, with special emphasis on the principles and mechanisms underlying health, disease, and modes of therapy. Step 2, which consists of separate clinical knowledge ("CK") and clinical skills ("CS") components, assesses whether an applicant can apply medical knowledge, skills, and understanding of clinical science essential for the provision of patient care under supervision and includes emphasis on health promotion and disease prevention. Step 3 assesses whether an applicant can apply medical knowledge and understanding of biomedical and clinical science essential for the unsupervised practice of medicine, with emphasis on patient management in ambulatory settings.

5. In order to take the USMLE, an applicant has to meet strict eligibility requirements.

With respect to the Step 1 or Step 2 examination, only those persons who fall into one of the following categories at the time of application and on the day of examination are eligible to sit for these examinations:

- a medical student officially enrolled in, or a graduate of, a US or Canadian medical school program leading to the MD degree that is accredited by the Liaison Committee on Medical Education (LCME),
- a medical student officially enrolled in, or a graduate of, a US medical school leading to the DO degree that is accredited by the American Osteopathic Association (AOA), or
- a medical student officially enrolled in, or a graduate of, a medical school outside the United States and Canada who meets the eligibility criteria of the ECFMG.

In addition, an individual physician who is eligible for licensure by a medical licensing authority, but who is not in one of the above three categories, may take Steps 1 or 2 at the request of that licensing authority and upon meeting certain requirements for licensure established by that licensing authority.

6. Step 1 is generally taken by a medical student enrolled in an accredited U.S. and Canadian medical school at the end of the student's second year of school, after the basic science curriculum has been completed. Step 2 is generally taken at or near the end of the student's fourth year of medical school. Step 3 is usually taken after the individual receives the medical degree and usually during or after the first year of residency training. Passage of all three Steps is accepted by all US medical licensing authorities to satisfy the examination requirements for licensure as a physician.

7. Some but not all medical schools require their students to take or pass Step 1, Step 2 CK or Step 2 CS in order to graduate and obtain a degree in medicine. According to information supplied by medical schools and compiled by the Association of American Medical

Colleges in 2011, 32 medical schools in the United States do not require a student to pass USMLE Step 2 CK to graduate. See Exhibit B. Some medical schools in the United States do not require their students to pass any Step of USMLE as a prerequisite to graduation.

8. Since 1999, the Step 2 CK examination has been administered exclusively as a computer-delivered examination. In order to provide as much scheduling flexibility to registrants as possible, Step 2 CK is available for delivery on most days of the week, nearly year round.

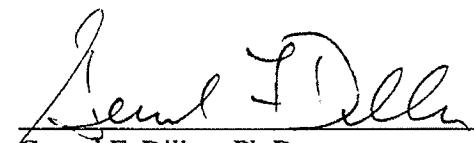
9. The Step 2 CK examination at issue here is offered five to six days per week, 50 weeks per year, at approximately 300 U.S. and 100 international Prometric® Testing Centers, which allows most examinees to take the examination at the time and place most convenient for them.

10. Eligible registrants must select a three-month period during which they wish to take the examination. Upon completion of the registration process and a determination of eligibility, the NBME, in the case of students of accredited U.S. and Canadian medical schools, sends to the registrant a Scheduling Permit, which specifies the three-month eligibility period during which the registrant must complete the examination. It is then the registrant's responsibility to contact his or her preferred Prometric® Testing Center to schedule a test date during that three-month period. If for any reason a registrant is unable to take the Step 2 CK examination within his or her eligibility period, extensions are available to take the test during the contiguous three-month eligibility period.

11. The NBME has a policy of granting accommodations in the form of alterations to the standard format of the examination only to examinees with disabilities as defined by the Americans with Disabilities Act ("ADA"). Alterations to the standard format of the examination

include such accommodations as additional time to complete the examination, additional break time, large print or audio examinations, or assistance in recording answers. This policy was established by the Composite Committee, which is a joint board established by the FSMB and the NBME to provide oversight for and direct the operation of the USMLE. The Composite Committee's responsibilities include: approving examination blueprints, test formats and research agenda, authorizing the scoring and standard setting system, establishing rules regarding sequencing of Step 1 and 2, determining test administration policies and scheduling, establishing policies for score reporting, examination security, irregular behavior and indeterminate scores, and reviewing recommendations from the Committee on Individualized Review concerning examinees found to have engaged in irregular behavior.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 24TH DAY OF  
May 24, 2012.

  
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Gerard F. Dillon, Ph.D.